IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

THURSDAY, THE 15TH NOVEMBER 2007 / 24TH KARTHIKA 1929

WP(C).No. 27310 of 2007(A)

PETITIONER:

K.K.RAJI,
PROPRIETRESS, ENKEYS RESTAURANT,
PATHIRAPPALLY, ALAPPUZHA.

BY ADV. SRI.A.SUDHI VASUDEVAN

RESPONDENTS:
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1. THE STATE OF KERALA,
REPRESENTED BY ITS SECRETARY,
TAXES(G) DEPARTMENT, THIRUVANANTHAPURAM.

2. THE EXCISE COMMISSIONER,
COMMISSIONERATE OF EXCISE,
THIRUVANANTHAPURAM.

3. ASST. EXCISE COMMISSIONER,
ALAPPUZHA.

BY GOVERNMENT PLEADER SRI. P.K. RAVI KRISHNAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 15/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) NO: 27310/2007

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1. COPY OF THE APPLICATION DT. 14/2/2001 BY THE PETITIONER BEFORE THE RESPONDENT.

EXT.P2. COPY OF THE JUDGMENT DT. 16/11/01 OF THIS COURT IN OP NO. 33035/01.

EXT.P3. COPY OF THE LETTER DT. 7/3/02 BY THE ASSISTANT DIRECTOR, INDIA TOURISM, GOVT. OF INDIA TO THE DIRECTOR OF TOURISM, GOVT. OF KERALA, PARK VIEW, THIRUVANANTHAPURAM.

EXT.P4. COPY OF THE LETTER DT. 17/05/02 BY THE MEMBER SECRETARY OF THE CLASSIFICATION COMMITTEE OF DEPARTMENT OF TOURISM, GOVT. OF INDIA TO THE REGIONAL DIRECTOR, GOVT. OF INDIA, TOURIST OFFICE, 154, ANNA SALAI, CHENNAI.

EXT.P5. COPY OF THE RESTAURANT APPROVAL ORDER DT. 24/6/02 BY THE REGIONAL DIRECTOR, DEPARTMENT OF TOURISM, GOVT. OF INDIA TO THE PETITIONER.

EXT.P6. COPY OF THE APPLICATION DT. 19/7/01 BY THE PETITIONER THROUGH THE R3 BEFORE THE R2 FOR FL-3 LICENSE FOR THE PETITIONER'S RESTAURANT BEARING THE ENDORSEMENT OF THE R3.

EXT.P7. COPY OF THE RESTAURANT APPROVED ORDER DT. 18/12/06 WITH EFFECT FROM 15/5/01.

EXT.P8. COPY OF THE PROCEEDINGS DT. 26/11/05 OF THE DIRECTOR, DEPARTMENT OF TOURISM, THIRUVANANTHAPURAM.

EXT.P9. COPY OF THE CERTIFICTE OF APPROVAL DT. 26/11/05 BY THE GOVT. OF KERALA TO THE PETITIONER'S RESTAURANT.

EXT.P10. COPY OF THE REPRESENTATION DT. 22/12/06 BY THE PETITIONER BEFORE THE R3.

EXT.P11. COPY OF THE LETTER DT. 4/1/07 BY THE R3 TO THE R2.

EXT.P12. COPY OF THE ORDER DT. 17/12/03 BY THE R2 GRANTING FL-3 LICENSE TO THE HOTEL KARTHIKA, ATTINGAL.

EXT.P13. COPY OF THE ORDER DT. 6/2/07 OF THE EXCISE COMMISSIONER ISSUED TO A.B. KUTTAN.

EXT.P14. COPY OF THE JUDGMENT OF THIS COURT DT. 1/3/07 IN WPC NO. 2654/2007.

EXT.P15. COPY OF THE ORDER OF THE EXCISE COMMISSIONER DT. 23/5/07.

EXT.P16. COPY OF THE ORDER DT. 18/08/2007 BY THE R1.

True copy

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THOTTATHIL B. RADHAKRISHNAN, J.

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WP(C).No.27310 of 2007-A

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Dated this the 15th day of November, 2007.

JUDGMENT

1. The petitioner contends that she had filed Ext.P6 application for licence. That application is dated 19-7-2001. The Assistant Excise Commissioner has returned that application on that day itself on the ground that classification certificate has not been produced. The materials on record disclose that there was a laborious exercise by the Tourism Department in the Central Government and ultimately, classification certificate was granted. If the petitioner produces classification certificate, the application for FL-3 licence has, therefore, to be treated as having been made on 19-7-2001. Hence, even if the application re-presented along the

classification certificate is not now seen available in the files of the State Government, the respondents have to act on Ext.P6. It is so directed.

1. In the result, this writ petition is disposed of directing that the respondents shall treat that the petitioner had applied for FL-3 licence on 19-7-2001 and that she has produced the Restaurant Approval Order of the Tourism Department of the Government of India, as evidenced by Ext.P7. On such basis, the application for FL-3 licence shall be processed and a final decision taken within an outer limit of three weeks from the date of receipt of a copy of this judgment, applying the law applicable on 19-7-2001.

THOTTATHIL B. RADHAKRISHNAN,
JUDGE.

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